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*Attorneys for Debtors and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**In re:**

**PG&E CORPORATION,**

**- and -**

**PACIFIC GAS AND ELECTRIC  
COMPANY,**

**Debtors.**

- ☐ Affects PG&E Corporation  
☐ Affects Pacific Gas and Electric  
Company  
☒ Affects both Debtors

*\* All papers shall be filed in the Lead  
Case, No. 19-30088 (DM).*

Case No. 19-30088 (DM)  
Chapter 11  
(Lead Case) (Jointly Administered)

**DEBTORS' OBJECTION TO MOTION OF  
THE OFFICIAL COMMITTEE OF TORT  
CLAIMANTS FOR ENTRY OF A  
PROTECTIVE ORDER**

Date: June 26, 2019  
Time: 9:30 a.m. (Pacific Time)  
Place: United States Bankruptcy Court  
Courtroom 17, 16th Floor  
San Francisco, CA 94102

**Objection Deadline:** June 19, 2019  
4:00 p.m. (Pacific Time)

1 PG&E Corporation and Pacific Gas and Electric Company, as debtors and debtors  
2 in possession (collectively, “**PG&E**” or the “**Debtors**”) in the above-captioned chapter 11 cases  
3 (the “**Chapter 11 Cases**”), hereby submit this objection (the “**Objection**”) to the *Motion of the*  
4 *Official Committee of Tort Claimants for Entry of a Protective Order*, dated June 5, 2019 [Docket  
5 No. 2419] (together with the supporting memorandum [Docket No. 2420], the “**TCC Motion**”).  
6 For the reasons set forth in the Debtors’ *Motion for Entry of Protective Order Pursuant to Fed. R.*  
7 *Bankr. P. 7026 and 9014(c) and 11 U.S.C. § 105(a) Governing Discovery Materials and Other*  
8 *Information*, dated June 7, 2019 [Docket No. 2459] (the “**Debtors’ Motion**”), the Debtors object  
9 to the TCC Motion and request that the Debtors’ Motion be granted instead. The Debtors  
10 therefore incorporate by reference herein the Debtors’ Motion and the accompanying *Declaration*  
11 *of Richard W. Slack in Support of Motion for Entry of Protective Order Pursuant to Fed. R.*  
12 *Bankr. P. 7026 and 9014(c) and 11 U.S.C. § 105(a) Governing Discovery Materials and Other*  
13 *Information*, dated June 7, 2019 [Docket No. 2460] (the “**Slack Declaration**”).

14 In order to efficiently and fairly address confidentiality issues that will inevitably  
15 arise from discovery and the exchange of information in these Chapter 11 Cases, the Debtors  
16 worked diligently over a period of many weeks to prepare a protective order. The Debtors  
17 modeled the proposed protective order on the U.S. District Court for the Northern District of  
18 California’s Model Protective Order for Litigation Involving Patents, Highly Sensitive  
19 Confidential Information and/or Trade Secrets — attached as Exhibit G to the Slack Declaration  
20 and available at [https://www.cand.uscourts.gov/filelibrary/776/ND\\_Cal\\_Patent\\_Highly\\_Sensitive](https://www.cand.uscourts.gov/filelibrary/776/ND_Cal_Patent_Highly_Sensitive_Model_Prot_Ord_Revised.docx)  
21 [\\_Model\\_Prot\\_Ord\\_Revised.docx](https://www.cand.uscourts.gov/filelibrary/776/ND_Cal_Patent_Highly_Sensitive_Model_Prot_Ord_Revised.docx) — with modifications to accommodate the unique and complex  
22 circumstances of a complicated bankruptcy proceeding, especially one where it is expected that  
23 the Debtors will be asked to produce information to many parties in connection with, among other  
24 things, various motions and adversary proceedings. The Debtors also considered a number of this  
25 Court’s prior orders — including four from the prior PG&E bankruptcy and two from other  
26 bankruptcies that were attached as Exhibits A through F to the Slack Declaration. As part of that  
27 effort, the Debtors extensively met and conferred with the TCC and the UCC. Indeed, the  
28 Proposed Protective Order submitted with Debtors’ Motion reflects language that has been the

1 product of extensive negotiations with the TCC and UCC. Since the filing of the Debtors'  
2 Motion, the Debtors have had further communications with interested parties, including the UCC  
3 and the CPUC, and have agreed to make additional changes. The Debtors hereby submit an  
4 amended version that reflects additional changes as a result of comments by the UCC and CPUC,  
5 annexed hereto as **Exhibit A** (the “**Amended Proposed Protective Order**”), as well as a redline  
6 reflecting the additional language, annexed hereto as **Exhibit B**.

7 As acknowledged by the TCC’s Motion, “the parties have agreed substantially on  
8 a stipulated proposed protective order to govern the production and exchange of discovery in  
9 these jointly administered chapter 11 cases.” Indeed, it is important that the Debtors have  
10 consistent procedures governing discovery in these Chapter 11 Cases, especially because the  
11 Debtors are likely to be the producing party in most circumstances. However, despite the  
12 Debtors’ good faith efforts to work (and compromise) with interested parties on the language of  
13 an agreed-upon protective order, the TCC nonetheless has remained unwilling to agree on two  
14 issues:

15 First, the TCC would shift the responsibility for filing a motion with the Court to  
16 challenge a confidentiality designation from the challenging party to the designating party.  
17 Second, although the Debtors have agreed to the TCC’s request that a challenge to a  
18 confidentiality designation may be brought at any time without any waiver for lack of a prompt  
19 challenge, the TCC would impose an inconsistent and drastic “waiver” provision under which a  
20 designating party (likely to be the Debtors in most cases) waives its confidentiality protection  
21 forever if it does not make a motion within 10 days of receiving any writing conveying a  
22 challenge to the designation.

23 As explained in the Debtors’ Motion, the provisions proposed by the Debtors to  
24 address challenges to confidentiality designations accord with a number of protective orders  
25 entered in bankruptcy matters by this Court, including those attached to the Slack Declaration that  
26 include several protective orders entered in connection with the prior PG&E bankruptcy case.  
27 The protective orders attached as **Exhibits A** through **D** to the *Declaration of Richard W. Slack in*  
28 *Support of Debtors’ Objection to Motion of the Official Committee of Tort Claimants for Entry of*

1 a *Protective Order* (the “**Slack Objection Declaration**”) provide additional authority for the  
2 provisions the Debtors propose. The prior protective orders attached to the Slack Declaration and  
3 **Exhibits A** through **D** to the Slack Objection Declaration require the party challenging a  
4 confidentiality designation to prosecute its own challenge, rather than saddling the Debtors in a  
5 large complex bankruptcy with that burden upon the receipt of a letter or email making such a  
6 challenge. Moreover, none of the protective orders attached to the Slack Declaration or the Slack  
7 Objection Declaration imposed a waiver of confidentiality if the designating party were not to  
8 bring a motion before the Court within any specified period of time. The Debtors’ Amended  
9 Proposed Protective Order likewise reflects the good judgment as set forth in these prior  
10 protective orders applicable in a complex bankruptcy.

11 The procedure that the TCC proposes, by contrast, would be burdensome and  
12 unfair to the Debtors. The TCC’s protective order would require the potentially costly and time-  
13 consuming filing of motions whenever any counterparty contested a confidentiality designation in  
14 any writing, even a simple email. The TCC further would unreasonably require such filings to be  
15 made within a 10-day period of any written notice on pain of permanent waiver of the  
16 confidentiality protection at issue.

17 In addition to the reasons the Debtors elaborated in their Motion for the Court to  
18 adopt the Debtors’ Proposed Protective Order, the Debtors point out that the Debtors’ Amended  
19 Proposed Protective Order provides for separate language to address issues raised by other  
20 interested parties which is not reflected in the TCC’s proposed protective order.

21 In sum, the Court should adopt the Debtors’ Amended Proposed Protective Order.

22 The Debtors therefore respectfully request that the Court deny the TCC’s Motion,  
23 approve the Debtors’ Motion as amended, enter the Amended Proposed Protective Order to govern  
24 all discovery in the Chapter 11 Cases and related proceedings, including informal discovery,  
25 discovery under Bankruptcy Rule 2004, and discovery in connection with the Cases – as further  
26 described in the Debtors’ Motion.

27  
28 Dated: June 19, 2019

**WEIL, GOTSHAL & MANGES LLP**

**KELLER & BENVENUTTI LLP**

By: /s/ Richard W. Slack

*Attorneys for Debtors and Debtors in Possession*

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